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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,767	02/25/2004	Daniel P. Hurt	2004-2148.ORI	2853

7590 02/06/2007
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EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3641

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/786,767	Applicant(s) HURT, DANIEL P.	
	Examiner Christopher J. Novosad	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5 and 8 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 6, 7 and 9-13 have been canceled.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Calef.

With respect to parent claim 1, Calef shows (Figs. 1-5) a hand tool comprising:

A frame (shank B) having a distal portion (unnumbered, at the lower end of Figs. 1-4) and a proximal portion (unnumbered, at the upper end of Figs. 1-4) generally defining a first axis (unnumbered) therebetween, the proximal portion having at least one proximal end (unnumbered, upper end of shank B);

(a) a working element (A) operably coupled (by rivets, unnumbered) to a distal end of the distal portion, the working element (A) having a working portion (bowl of the spoon) that is oriented along a first direction (unnumbered) with respect to the frame (B);

(b) a handle means (I) being defined between a first end (unnumbered) and an opposed second end (unnumbered) thereof, the first end (unnumbered) being anchored (via H) to and disposed adjacent to the frame (shank B), the handle means (I) being pivotally coupled to the frame (B) at a portion (unnumbered) thereof intermediate the proximal end (lower end of shank B) and the distal end (upper end of shank B); the handle means (I) having a pivot axis (about line x-x in Fig. 4) substantially perpendicular to the first axis (unnumbered); such that the second end

Art Unit: 3641

(unnumbered) of the handle means (I) operably pivots between a first position (Figs. 1-5) spaced from the first axis (unnumbered) and a second position (not shown but necessarily present) substantially in alignment with the first axis (unnumbered); and

(c) a brace means (D, E) operably coupled to the proximal end (upper end of shank B) of the frame (B), the brace means (D, E) being configured to operably brace against an upper side of a user's forearm while the user operably grasps the handle means (I).

As to claim 4, the brace means (D, E) is fabricated from a resilient material ("strap, spring or other device, E"; col. 1, line 43).

Regarding claim 5, the working element (A) is removably secured to the frame (shank B) by rivets (unnumbered).

With regard to claim 8, the handle means (I, in Figs. 3 and 4) of Calef is "removably securable to the frame" (B) as required in the claim. For example, it is capable of being placed on and removed from the shank (B) prior to securing the detachable arm-piece (D, E) on the shank (B), as shown in the embodiment of Figs. 3 and 4.

Allowable Subject Matter

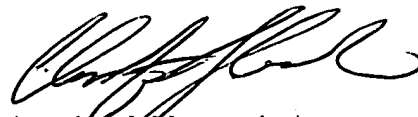
Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

Art Unit: 3641

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached at 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher J. Novosad
Primary Examiner
Art Unit 3641

February 3, 2007